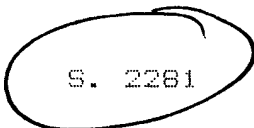

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Report for S.2281 Computer Fraud and Abuse Act of 1986
As introduced in the Senate
Complete Text of this version

99th CONGRESS
2d Session

II



S. 2281

To amend title 18, United States Code, to provide additional penalties for fraud and related activities in connection with access devices and computers, and for other purposes.

IN THE SENATE OF THE UNITED STATES

April 10 (legislative day, April 8), 1986

Mr. Tribble (for himself, Mr. Laxalt, Mr. Denton, Mr. Armstrong, and Mr. Dixon) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend title 18, United States Code, to provide additional penalties for fraud and related activities in connection with access devices and computers, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Computer Fraud and Abuse Act of 1986".

SEC. 2. SECTION 1030 AMENDMENTS.

(a) Modification of Definition of Financial Institution.--Section 1030(a)(2) of title 18, United States Code, is amended--

(1) by striking out "knowingly" and inserting "intentionally" in lieu thereof; and

(2) by striking out "as such terms are defined in the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 et seq.),".

(b) Modification of Existing Government Computers Offense.--Section

1030(a)(3) of title 18, United States Code, is amended--

(1) by striking out "knowingly" and inserting "intentionally" in lieu thereof;

(2) by striking out ", or having accessed" and all that follows through "prevents authorized use of, such computer";

(3) by striking out "It is not an offense" and all that follows through "use of the computer."; and

(4) by striking out "if such computer is operated for or on behalf of the Government of the United States and such conduct affects such operation" and inserting in lieu thereof "if such computer is exclusively for the use of the Government of the United States or, in the case of a computer not exclusively for such use, if such computer is used by or for the Government of the United States and such conduct affects such use".

(c) Modification of Authorized Access Aspect of Offenses.--Paragraphs (1) and (2) of section 1030(a) of title 18, United States Code, are each amended by striking out ", or having accessed" and all that follows through "does not extend" and inserting "or exceeds authorized access" in lieu thereof.

(d) New Offenses.--Section 1030(a) of title 18, United States Code, is amended by inserting after paragraph (3) the following:

"(4) knowingly and with intent to defraud, accesses a Federal interest computer without authorization, or exceeds authorized access, and by means of such conduct furthers the intended fraud and obtains anything of value, unless the object of the fraud and the thing obtained consists only of the use of the computer;

"(5) intentionally accesses a Federal interest computer without authorization, and by means of one or more instances of such conduct alters information in that computer, or prevents authorized use of that computer, and thereby causes loss to another of a value aggregating \$1,000 or more during any one year period; or

"(6) knowingly and with intent to defraud traffics (as defined in section 1029) in any password or similar information through which a computer may be accessed without authorization, if--

"(A) such trafficking affects interstate or foreign commerce; or

"(B) such computer is used by or for the Government of the United States;".

(e) Elimination of Section Specific Conspiracy Offense.--Section 1030(b) of title 18, United States Code, is amended--

(1) by striking out "(1)"; and

(2) by striking out paragraph (2).

(f) Penalty Amendments.--Section 1030 of title 18, United States Code, is amended--

(1) by striking out "of not more than the greater of \$10,000" and all that follows through "obtained by the offense" in subsection (c)(1)(A) and inserting "under this title" in lieu thereof;

(2) by striking out "of not more than the greater of \$100,000" and all that follows through "obtained by the offense" in subsection (c)(1)(B) and inserting "under this title" in lieu thereof;

(3) by striking out "or (a)(3)" each place it appears in subsection (c)(2) and inserting ", (a)(3) or (a)(6)" in lieu thereof;

(4) by striking out "of not more than the greater of \$5,000" and all that follows through "created by the offense" in subsection (c)(2)(A) and inserting "under this title" in lieu thereof;

(5) by striking out "of not more than the greater of \$10,000" and all that follows through "created by the offense" in subsection (c)(2)(B) and inserting "under this title" in lieu thereof;

(6) by striking out "not than" in subsection (c)(2)(B) and inserting

"not more than" in lieu thereof;

(7) by striking out the period at the end of subsection (c)(2)(B) and inserting "; and" in lieu thereof; and

(8) by adding at the end of subsection (c) the following:

"(3)(A) a fine under this title or imprisonment for not more than five years, or both, in the case of an offense under subsection (a)(4) or (a)(5) of this section which does not occur after a conviction for another offense under such subsection, or an attempt to commit an offense punishable under this subparagraph; and

"(B) a fine under this title or imprisonment for not more than ten years, or both, in the case of an offense under subsection (a)(4) or (a)(5) of this section which occurs after a conviction for another offense under such subsection, or an attempt to commit an offense punishable under this subparagraph.".

(g) Conforming Amendments to Definitions Provision.--Section 1030(e) of title 18, United States Code, is amended--

(1) by striking out the comma after "As used in this section" and inserting a one-em dash in lieu thereof;

(2) by aligning the remaining portion of the subsection so that it is cut in two ems and begins as an indented paragraph, and inserting "(1)" before "the term";

(3) by striking out the period at the end and inserting a semicolon in lieu thereof; and

(4) by adding at the end thereof the following:

"(2) the term 'Federal interest computer' means a computer--

"(A) exclusively for the use of a financial institution or the United States Government, or, in the case of a computer not exclusively for such use, used by or for a financial institution or the United States Government and the conduct constituting the offense affects such use; or

"(B) which is one of two or more computers used in committing the offense, not all of which are located in the same State;

"(3) the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, and any other possession or territory of the United States;

"(4) the term 'financial institution' means--

"(A) a bank with deposits insured by the Federal Deposit Insurance Corporation;

"(B) the Federal Reserve or a member of the Federal Reserve including any Federal Reserve Bank;

"(C) an institution with accounts insured by the Federal Savings and Loan Insurance Corporation;

"(D) a credit union with accounts insured by the National Credit Union Administration;

"(E) a member of the Federal home loan bank system and any home loan bank; and

"(F) any institution of the Farm Credit System under the Farm Credit Act of 1971;

"(5) the term 'financial record' means information derived from any record held by a financial institution pertaining to a customer's relationship with the financial institution; and

"(6) the term 'exceeds authorized access' means to access a computer with authorization and to use such access to obtain or alter information in the computer that the accesser is not entitled so to obtain or alter.".

(h) Law Enforcement and Intelligence Activity Exception.--Section 1030 of

title 18, United States Code, is amended by adding at the end the following new subsection:

"(f) This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or of an intelligence agency of the United States.".

S 4072

CONGRESSIONAL RECORD — SENATE

April 10, 1986

the Committee on Agriculture, Nutrition, and Forestry.

By Mr. McCURE (by request):

S. 2285. A bill to promote competition in the natural gas market, to ensure open access to transportation services, to encourage production of natural gas, to provide natural gas consumers with adequate supplies at reasonable prices, to eliminate demand restraints, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DECONCINI:

S. 2286. A bill to prohibit the sale, donation, or other transfer of STINGER anti-aircraft missiles to democratic resistance forces in Afghanistan and Angola unless certain conditions are met; to the Committee on Foreign Relations.

By Mr. BRADLEY (for himself and Mr. LAUTENBERG):

S. 2287. A bill to amend the Wild and Scenic Rivers Act to designate a certain portion of the Great Egg Harbor River in the State of New Jersey for potential addition to the wild and scenic rivers system; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. ABDNOR (for himself, Mr. NICKLES, Mr. SYMMS, Mr. McCURE, Mr. ANDREWS, Mr. BORER, Mr. HECHT, Mr. GORE, Mr. DURENBERGER, Mr. BOSCHWITZ, Mr. HEFLIN, Mr. DENTON, Mr. ARMSTRONG, Mrs. HAWKINS, and Mrs. KASSELBAUM):

S. Res. 275. A resolution to express the sense of the Senate that the Secretary of Agriculture should take certain actions to minimize the adverse effect of the milk production termination program on beef, pork, and lamb producers; and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. LAUTENBERG (for himself and Mr. WEICKER):

S. Res. 380. A resolution expressing the sense of the Senate of the United States of America that the United States Government should not undertake any efforts to interfere with the free market by encouraging OPEC or its members to adopt production controls to artificially raise oil prices; to the Committee on Foreign Relations.

By Mr. DECONCINI:

S. Res. 381. A resolution expressing the sense of the Senate with respect to United States corporations doing business in Angola; to the Committee on Banking, Housing, and Urban Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WILSON (for himself, Mrs. HAWKINS, Mr. McCURE, Mr. HEFLIN, Mr. SYMMS, Mr. ABDNOR, Mr. GRASSLEY, Mr. WALLOP, Mr. DECONCINI, and Mr. SIMPSON):

S. 2280. A bill to amend the Agricultural Act of 1949 to suspend the application of the milk production termination program in order to minimize the adverse effect of the program on beef, pork, and lamb producers; to the Committee on Agriculture, Nutrition, and Forestry.

(The remarks of Mr. WILSON and the text of the legislation appear earlier in today's RECORD.)

By Mr. TRIBLE (for himself, Mr. LAXALT, Mr. DENTON, Mr. ARMSTRONG, and Mr. DIXON):

S. 2281. A bill to amend title 18, United States Code, to provide additional penalties for fraud and related activities in connection with access devices and computers, and for other purposes; to the Committee on the Judiciary.

COMPUTER FRAUD AND ABUSE ACT

Mr. TRIBLE. Mr. President, I am introducing today a revised version of legislation I sponsored last year to combat computer crime. I am especially pleased that the chairman of the Criminal Law Subcommittee, Senator LAXALT, has joined me in sponsoring this bill, along with Senators DENTON, ARMSTRONG, and DIXON. Congressman HUGHES is introducing identical legislation today in the House of Representatives.

This new bill will supersede S. 440, the computer crime legislation I introduced in February of 1985. That measure was the subject of a hearing before the Criminal Law Subcommittee on October 30, 1985. In the months since, I have worked closely with Senator LAXALT to meet the concerns raised at that hearing, and I believe that this new bill will adequately address the computer crime problems facing the Federal Government, federally insured financial institutions, and the private sector.

In general, this measure will expand the protections against computer crime currently enjoyed by the Federal Government. Likewise, new offenses will be created for theft or intentional destruction of computer data when the offense is committed on an interstate basis, or when the crime is committed against computers belonging to federally insured financial institutions. Trafficking in computer passwords by those who intend to defraud the owner of the subject computer will also be proscribed.

The advent of widespread computer use has brought a great many benefits to the Nation. This Congress must act to ensure that those benefits are protected against computer criminals. I believe this legislation will do so, and I urge my colleagues to join Senator LAXALT and me in cosponsoring this bill.

I also ask unanimous consent that detailed analysis of the legislation and a copy of the bill itself appear in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2281

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE.

This Act may be cited as the "Computer Fraud and Abuse Act of 1986".

SEC. 2. SECTION 1030 AMENDMENT.

(a) MODIFICATION OF DEFINITION OF FINANCIAL INSTITUTION.—Section 1030(a)(2) of title 18, United States Code, amended—

(1) by striking out "knowingly" and inserting "intentionally" in lieu thereof; and

(2) by striking out "as such terms are defined in the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 et seq.)."

(b) MODIFICATION OF EXISTING GOVERNMENT COMPUTERS OFFENSE.—Section 1030(a)(3) of title 18, United States Code, is amended—

(1) by striking out "knowingly" and inserting "intentionally" in lieu thereof;

(2) by striking out "or having accessed" and all that follows through "prevents authorized use of such computer";

(3) by striking out "It is not an offense" and all that follows through "use of the computer;" and

(4) by striking out "if such computer is operated for or on behalf of the Government of the United States and such conduct affects such operation" and inserting in lieu thereof "if such computer is exclusively for the use of the Government of the United States or, in the case of a computer not exclusively for such use, if such computer is used by or for the Government of the United States and such conduct affects such use".

(c) MODIFICATION OF AUTHORIZED ACCESS ASPECT OF OFFENSES.—Paragraphs (1) and (2) of section 1030(a) of title 18, United States Code, are each amended by striking out "or having accessed" and all that follows through "does not extend" and inserting "or exceeds authorized access" in lieu thereof.

(d) NEW OFFENSES.—Section 1030(a) of title 18, United States Code, is amended by inserting after paragraph (3) the following:

"(4) knowingly and with intent to defraud, accesses a Federal interest computer without authorization, or exceeds authorized access, and by means of such conduct further the intended fraud and obtains anything of value, unless the object of the fraud and the thing obtained consists only of the use of the computer;

"(5) intentionally accesses a Federal interest computer without authorization, and by means of one or more instances of such conduct alters information in that computer, or prevents authorized use of that computer, and thereby causes loss to another of a value aggregating \$1,000 or more during any one year period; or

"(6) knowingly and with intent to defraud traffics (as defined in section 1029) in any password or similar information through which a computer may be accessed without authorization, if—

"(A) such trafficking affects interstate or foreign commerce; or

"(B) such computer is used by or for the Government of the United States."

(e) ELIMINATION OF SECTION SPECIFIC CONSPIRACY OFFENSE.—Section 1030(b) of title 18, United States Code, is amended—

(1) by striking out "(1)", and

(2) by striking out paragraph (2).

(f) PENALTY AMENDMENTS.—Section 1030 of title 18, United States Code, is amended—

(1) by striking out "of not more than the greater of \$10,000" and all that follows through "obtained by the offense" in subsection (c)(1)(A) and inserting "under this title" in lieu thereof;

(2) by striking out "of not more than the greater of \$100,000" and all that follows through "obtained by the offense" in subsection (c)(1)(B) and inserting "under this title" in lieu thereof;